1994-95 in that regard and how much matching grants have been released duirng the period; and

(c) by when entire amount is proposed to be released?

THE MINISTER OF STATE IN THE MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI H.R. BHARDWAJ): (a) It is a fact that the Government have approved a Centrally Sponsored Scheme for the development of infrastructural facilities of capital nature for the judiciary in which one of the main criteria is that the State must come forward with a matching provision. The Central grant, however, is not unlimited and is decided on the basis of allocations made by the Planning Commission during Annual Plan discussions and distributed amongst all the States and Union Territories as per criterion laid down by them.

(b)

Outlay provided by the Maharashtra Government during (Rs. in lakhs)		Amount released by the Central Government during (Rs. in lakhs)	
1993-94	1994-95	1993-94	1994-95
458.0	1117.50	193.80	377.35

(c) The full share of Maharashtra worked out as per the criterion laid down by the Planning Commission has already been released to the State.

Meeting of Law Ministers, Law Secretaries and Chief Justice

6488. SHRI GOPALSAMY: Will the PRIME MINISTER be pleased to state:

(a) how many times the Law Ministe , Law Secretaries and Chief Justices met during the last three years and what were the subject discussed;

(b) how many times the All India Conference took place to discuss the problems of law reforms, problems of undertrials and other related problems of law and justice; and

(c) the action taken thereon?

THE MINISTER OF STATE IN THE MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI H.R. BHARDWAJ): (a) to (c) A meeting of Law Ministers and Law Secretaries was held in Bangalore during 16-18 October 1992. The meeting considered the recommendations of the Malimath Committee as also of the Law Commission on the question of accummulation of arrears of cases in courts. At this meeting the Law Ministers constituted three open ended Working Groups to consider the recommendations of the Malimath Committee and of the Law Commissioin on the subject of arrears of cases in courts and to recommend a time-bound action-plan for their implementation.

These Working Groups met in Pondicherry (5-7 February 1993), Panaji (24-26 April 1993) and Pachmarhi (22-23 May 1993) and adopted statements on the subjects entrusted to them.

A metting of Chief Ministers and Chief Justices was then organised in New Delhi on 4 December 1993, under the chairmanship of the Prime Minister, wherein the recommendations made by the Law Ministers' Working Groups were considered. A copy of the Resolution adopted by the Chief Ministers and Chief Justices at this meeting is placed at Statement-I *(See* below)

In pursuance of the recommendations contained in the Resolution adopted by the Chief Ministers and Chief Justices at their December 1993 meeting, the Department of Legal Affairs constituted three Working Groups of Law Ministers and Law Secretaries on 'Rural Litigation', 'Arbitration' and 'Administrative Tribunals'. Meetings of tnese Working Groups were held in Chandigarh (29-31) October 1994), Bombay (4-6 October 1994) and New

Delhi (5 November 1994), respectively. The Plenary Meeting of Law Ministers and Law Secretaries held in Calcutta during 15-17 November 1994 considered the recommendations made by the Law Ministers' Working Groups on 'Rural Litigation', 'Arbitraiton' and 'Administrative Tribunals' as also the progress made in the implementaiton of the recommendations contained in the Resolution adopted by the Chief Ministers and Chief Justices in their December 1993 meeting. A copy of the 'Calcutta Resolution' adopted by the Law Ministers at this Plenary meeting is at Statement-II *(Seel* below). Copies of the 'Calcutta Resolution' have been forwarded to all Ministries/Departments of the Government of India, all State Governments and High Courts and to the heads of all quasi-judicial bodies under the control of the Central Government for implementation .

In the Calcutta Resolution, Law Ministers have expressed the view that the Arbitration Act, 1940 was no longer in tune with the international thought on the subject and that comprehensive law on arbitration and conciliation be made, based largely on the UNCITRAL Model Law for International Commercial Arbitration and the UNCITRAL Conciliation Rules. They have recommended that the new law should apply to both domestic and international arbitration and conciliation.

In pursuance of this recommendation, Government has introduced in this House a Bill for enactment of a new law relating to arbitration and conciliation based largely on the UNCITRAL Model Law on Internatinal Commercial Arbitration and the UNCITRAL Conciliation Rules.

Statement-I

CHIEF MINISTERS' AND CHIEF JUSTICES' MEETING, 1993

Resolution

Introductory

1. The Chief Ministers and Chief Justices met in New Delhi on 4th December, 1993 to consider the problem of arrears of cases in courts and to find out ways and means to deal with it as expeditiously as possible. The Prime Minister of India, Shri P.V. Narasimha Rao, was in the Chair. The Chief Justice of India, Shri Justice M.N. Venkatachaliah, delivered a special address at the meeting.

2. The Chief Ministers and Chief Justices expressed theri appreciation of the recommendations of the Law Ministers who met in Bangalore (October 1992), Pondicherry (February 1993), Panaji (April 1993), Pachmarhi (May 1993), and of the recommendations of the Informal Consultation Committee which met in New Delhi (October-November 1993) under the Chairmanship of the Chief Justice of India. They noted that these recommendations took into account the various reports of the Law Commission of India as also the report of the Arrears Committee, 1989-90, constituted by the Governemnt of India on the recommendation of the Chief Justices Conference.

3. The Chief Ministers and Chief Justices expressed their deep concern over the exploding court dockets. While noting that the problem of arrears was complex in nature, they emphasised that timely action was called for with a view to bringing the justice system in-tune with the current needs of all court users at the same time ensuring the quality of justice required to be maintained in any State governed by the rule of Law.

Appointment of Judges

4. The Chief Ministers and Chief Justices noted with concern the delays

that occurred in filling up vacancies in the Superior Courts and underlined the need to review the procedure for the appointment of Judges. They considered that it was necessary to initiate action with regard to appointments at least four months in advance of the occurrence of a vacancy and to prescribe specific time-limits within which the proposals ought to be processed at different stages so as to ensure that Judges were appointed as soon as vacancies arose. They recommended that the number of vacancies in each High Court to be filled up from the judicial officers of subordinate judiciary should be enlarged; this number might go up to 40 per cent. They further recommended that due representation should be given to the weaker sections of the people, consistently with the maintenance of efficiency of the judiciary, in the making of appointments of judicial officers from the Bar.

Judges Strength

5. The Chief Ministers and Chief Justices took note of the fact that the work-load of the High Courts was steadily increasing. They expressed the opinion that, for efficiently dealing with arrears of pending cases, the Government of India should undertake periodic review of the optimum strength of the Judges in each High Court, in consultation with the constitutional functionaries in the States concerned and the Chief Justice of India. The first such exercise should take place within a period of six months and thereafter once in every three years. They, however, emphasised that there were several other factors which also contributed to the accumulation of arrears substantially and that the question of Judges strength could not be viewed in isolation from those factors.

6. The Chief Ministers and Chief Justices noted that unsatisfactory appointment of Judges could contribute to accumulation of arrears and to the deterioration of the quality of justice administered by courts. They considered that the constitutional functionaries should exercise greatest amount of care in the appointment of Judges so as to ensure that only persons who have, among other things, requisite legal expertise, ability to handle cases, proper personal conduct and ethical behaviour, firmness and fearlessness were appointed.

Transfer of Judges

7. The Chief Ministers and Chief Justices, while welcoming the policy that one-third of Judges in each High Court should be from other States, observed that this policy should be effectively implemented. They noted with satisfaction the implementation of the policy of having the Chief Justices of High Courts from outside.

Appointment of Judges as Commissions of Inquiry

8. The Chief Ministers and Chief Justices noted that appointment of Judges of the High Courts and of the Supreme Court as Commissions of Inquiry led to reduction in effective Judge strength for disposal of normal judicial work. They recognised that appointment of Judges as such Commissions become unavoidable due to public confidence in their expertise and independence. They considered, however, that appointment of serving Judges as Commissions should not be made except in exceptional cases.

Alternative Dispute Resolution

9. The Chief Ministers and Chief Justices were of the opinion that courts were not in a postion to bear the entire burden of justice system and that a number of disputes lent themselves to resolution by altenative modes such as arbitration, mediation and negotiation. They emphasised the disirability of disputants taking advantage of alternative dispute resolution which provided procedural flexibility, saved valuable time and money and avoided the stress of a conventional trial. They emphasised the urgent need to strengthen the movement

of Lok Adalats throughout the country for resolution of disputes. They considered that Legal Services Authorities in the States be constituted immediately on the pattern suggested in the Legal Services Authorities (Amendment) Bill, 1991. They also commended the pattern of Conciliation Courts as existing in Himachal Pradesh. They further underlined the need for both the Central Government and the State Governments to set up effective Grievances Cells for resolving problems before they ended up as disputes in courts and tribunals.

Apppeals and Original Jurisdiction

10. The Chief Ministers and Chief Justices noted that Regular First Appeals arising under the Code of Civil Procedure and under certain special enactments had contributed substantially to arrears in the High Courts. They were of the opinion that there was a need for raising the pecuniary Appellate jurisdiction of District Courts/City Civil Courts up to 2 lakhs, wherever it was less. They stressed that the provisions of Order 41, Rule 11 and Rule 11A of the Code of Civil Procedure, 1908, should be implemented effectively with a view to avoiding frivolous appeals. They felt that the requirement of annexing a certified copy of the decree to the memorandum of appeal be dispensed with and that an appeal be allowed to be filed by producing the operative part of the judgment along with the memorandum of appeal. They also recommended deletion of the provision for confirmation of a decree of divorce by the High Court.

11. The Chief Ministers and Chief Justices considered that abolition of the Letters Patent Appeals, except in respect of orders of a single Judge made in exercise of the original jurisdiction of the High Court, as also Division Bench Appeals presently available against judgment of a single Judge of a High Court, could go a long way towards lessening the burden on High Courts.

12. The Chief Minister and Chief Justices recommended that the High Courts should make rules or orders specifying categories of cases which could be heard by a single Judge, or as the case may be, by a Division Bench, having regard to their complexities and importance.

13. The Chief Ministers and Chief Justices were of the opinion that High Court's ordinary original civil jurisdiction should be abolished. They however, favoured continuance of High Court's jurisdiction to try election petitions.

Criminal Cases

14. The Chief Ministers and Chief Justices noted with concern the existing delays in disposal of criminal cases which arise on account of the nature of the procedural laws, pratices and procedures followed by criminal courts, the inadequacies of investigating and prosecuting agencies, etc.

15. The Chief Ministers and Chief Justices recommended that every State should establish a committee consisting of, among others, the Advocate General of the State, and the Remembrancer of Legal Affairs/Law Secretary (Judicial) of the State, to go into the question of elimination of frivolous litigation and suggest appropriate remedial measures. They also recommended that this committee should consider the categories of cases which could be withdrawn if they were pending for more than a specified number of years.

16. The Chief Ministers and Chief Justices stressed that the provisions of the Code of Criminal Procedure, 1973, in regard to appointments of Judicial Magistrates of the second class, Special Judicial Magistrates and Special metropolitan Magistrates should be put to use by identifying cases which they are empowered to deal with under the Code. The existing infrastructures of the courts be utilised by appropriate shifting of working hours of the courts in this regard.

17. The Chief Ministers and Chief Justices considered that, having regard to the unprecedented increase in the volume of original litigation, the magisterial courts should be required, by law, to try in a summary way the offences specified in sections 260 and 261 of the Code of Criminal Procedure. They considered that a Committee be set up to recommend as to which offences under the Indian Penal Code should be added to the table of compoundable offences in section 320 of the Code of Criminal Procedure.

18. The Chief Ministers and Chief Justices considered that in order to cut down delay in the service of summons and notices in Criminal cases, the work of serving summons and notices should be entrusted to the process servers of the courts in addition to the Police as at present. They also suggested that the Committee mentioned in the preceding paragraph be called up to explore ways and means by which victims of crime are adequately compensated.

Special summary Procedure for "Rural Litigation"

19. The Chief Ministers and Chief Justices underlined the need for restructuring the judicial system with a view to ensuring in expensive and speedy resolution of rural litigation.

Concentration of Work

20. The Chief Ministers and Chief Justices agreed that inordinate concentration of work in the hands of some members of the Bar had contributed to the accumulation of arrears, especially in the Supreme Court and the High Courts. They considered that this led, among other things, to the mounting cost of litigation. They were of the opinion that the Bar Council of India, in consultation with the Bar Councils of various States, should address itself to this problem and make appropriate recommendations. It was felt that the leaders of the Bar should be invited by the Bar Council to participate in the enunciation of any recommendation that might be made in this regard.

Handling of Judicial Work

21. The Chief Ministers and Chief Justices noted with concern that granting of unneccessary adjournments had become a widespread phenomenon. They considered that a convention should be evolved that would discourage the granting of adjournments except in exceptional circumstances and require recording of reasons for granting adjournments.

22. The Chief Ministers and Chief Justices felt that unending oral agruments not only increased the costs of litigation but also contributed to the accumulation of arrears of cases. They further felt that, in the interest of expeditious disposal of cases, courts should discourage long arguments. They felt that, while it might not be desirable to dispense with oral arguments altogether, time limits should be fixed, in consultation with the counsel, for the presentation of oral arguments. They also recommended that parties should be made to present a concise note of arguments, including the case law to be relied upon, in advance before the commencement of oral arguments.

23. The Chief Ministers and Chief Justices also felt that there was need for avoiding, as a general rule, the writing of long and elaborate judgments and that reserved judgments should ordinarily be delivered within a reasonable time and that provision be made in the relevant rules ensuring that in all courts time-limits are set for pronouncement of reserved judgments.

24. The Chief Ministers and Chief Justices expressed their concern at the growing accumulation of old cases. They recommended that all courts should consider preparing lists of old cases and arranging their early disposal. It was also considered that criteria should be evolved for giving priority of consideration to case requiring prompt attention.

25. The Chief Ministers and Chief Justices considered that urgent steps should be taken to furnish courts with modern equipments like photocopying machines, word processors and electronic typewriters and to implement the recommendations of the National Judicial Academy in this regard.

26. The Chief Ministers and Chief Justices felt that grouping and classification of cases should be undertaken in all the courts on a priority basis, so that several cases could be disposed of together with the spending of the minimum amount of court-time.

Strikes

27. The Chief Ministers and Chief Justices viewed with deep concern the recurrent phenomenon of lawyers going on strike which affected the administration of justice. They recommended that a committee should be constituted consisting of lawyers and judges at the appropriate level for finding out the underlying causes for lawyers' strikes and for evolving appropriate guidelines for preventing indiscriminate closure of courts. It was also felt that, in the interests of balanced growth of legal profession, senior lawyers should evince greater interest in moulding the careers of junior lawyers.

Administrative Tribunals

28. The Chief Ministers and Chief Justices considered that the recommendations made herein above should, *mutatis mutandis*, be enforced even in respect of administrative tribunals. They recommended that Government should undertake an examination of problems connected with arrears of cases in these tribunals.

Regular Review

29. The Chief Ministers and Chief Justices recognised the need for the various steps to be taken pursuant to this Resolution to be kept under regular review. They invited the Government of India, as the need arose, to convene meetings of Chief Ministers and Chief Justices to undertake this task and monitor implementation of this Resolution.

NEW DELHI.
4th *December*, 1993.

Statement-II

Law Ministers' Meeting, 1994

The Calcutta Resolution

Introductory

1. The Law Ministers met in Calcutta on 17th November, 1994 to review the progress made in the implementation of the Resolution adopted by the Chief Ministers and Chief Justices in New Delhi on 4th December, 1993 on the subject of arrears of cases in courts and tribunals and also to elaborate further the recommendations contained in the said Resolution with regard to rural litigation, arrears of cases in administrative tribunals and alternative dispute resolution. The Union Minister of State for Law, Justice and Company Affairs, Shri H.R. Bhardwaj, was in the Chair. The Chief Justice of India, Shri Justice A.M. Ahmadi, and the Chief Minister of West Bengal, Shri Jyoti Basu, delivered special addresses at the meeting.

2. The Law Ministers expressed their appreciation of the work done in the Working Groups of Law Ministers which met in Bombay (6th October, 1994), Chandigarh (31st October, 1994) and New Delhi (5th November, 1994)

Implementation of CMs' and CJs' Resolution

3. The Law Ministers recalled with satisfaction that the CMs' and CJs' Resolution was adopted unanimously. They noted that the Government of India accepted the recommendations contained in the said Resolution. The Law Ministers took note of Doc. LMM/94/ No. 4 containing a statement showing follow-up action taken on the

recommendations made by the Chief Ministers and Chief Justices. While expressing satisfaction that the Central Government, the State Governments and the judiciary have implemented certain recommendations contained in the said Resolution, the Law Ministers noted that the progress made in this regard was not completely satisfactory. They underlined the need to implement the recommendations within reasonable time. They considered that financial or other constraints should not be allowed to come in the way of implementing the recommendations contained in the Resolution. They called upon all concerned to extend full co-operation in the mater of implementation of the said Resolution. The Law Ministers expressed the hope that the State Governments would utilise the amounts released by the Central Government based on a formula approved by the Planning Commission of India.

Alternative Dispute Resolution

4. The Law Ministers recalled that the Chief Ministers and Chief Justices emphasized the desirability of disputants resolving their disputes by alternative modes such as arbitration, mediation, conciliation and negotiation, since they provided procedural flexibility, saved valuable time and money and avoided the stress of a conventional trial.

5. The Law Ministers considered that the Arbitration Act, 1940 was no longer in tune with the international thought on the subject and that comprehensive law on arbitration be made, based largely on the UNCITRAL Model Law on International Commercial Arbitration. They further recommended that the said Law should also contain provisions on conciliation modelled on the UNCITRAL Conciliation Rules. The Law Ministers recommended that the new law should apply to both international, and domestic arbitration and conciliation.

Rural Litigation

6. The Law Ministers noted that the rural litigation constituted a major part of cases currently pending in courts and recalled that the Chief Ministers and Chief Justices underlined the need for restructuring the judicial system with a view to ensuring inexpensive and speedy resolution of rural litigation. They were generally of the view that Nyaya Panchayats had not established themselves as effective instruments for settlement of rural litigation.

7. There was general agreement that, given adequate facilities, courts could effectively deal with rural litigation. The Law Ministers noted in this regard the Pilot Project Scheme evolved by the High Clurt of Karnataka which led, within a period of one year, to the disposal of about fifty per cent. of the cases in the selected districts. While commending this Scheme, the Law Ministers recommended the adoption of the Karnataka model or a model similar to it in other States. The Law Ministers noted that Madhya Pradesh and Tamil Nadu have introduced similar schemes in their States.

8. The Law Ministers also considered that the efforts of subordinate courts in the Matter of rural litigation would need to be supplemented by those of Lok Adalats. While noting with satisfaction that Lok Adalts would soon be given statutory status, the Law Ministers recommended that immediate steps should be taken to facilitate the early into force of the Legal Services Authorites Act, 1987. The Law Ministers also noted that the traditional and customary councils in the North-Eastern Hill States have been rendering inexpensive and speedier justice to the people of these States.

9. The Law Ministers recalled that the Chief Ministers and Chief Justices commended that pattern of Conciliation Courts in Himachal Pradesh and expressed the hope that such Courts would be consitituted in other States soon.

10. The Law Ministers noted with satisfaction the existence of mediation and conciliation centres in some States like Tamil Nadu and recommended that such centres should be established in other States also.

11. The Law Ministers recalled the recommendation of the CM's and CJs that the provisions of the Code of Criminal Procedure, 1973 in regard to appointments of Special Judicial Magistrates and Special Metropolitan Magistrates should be put to use by indentifying cases which they were empowered to deal with under the Code, and emphasised that there was urgent need to appoint such Magistrates.

12. The Law Ministers also felt that immediate consideration should be given to the categories of criminal cases which could be withdrawn if they were pending for prolonged periods. In this context, the Law Ministers noted with interest constitution of committees in some States consisting of the Chief Secretary, the Law Secretary and the Administrative Secretary, among others, for the purpose of taking appropriate decisions with regard to reduction of Government litigation in courts and recommended that consideration should be given to the constitution of similar committees in other States. The Law Ministers felt that renewed efforts should be made with a view to avoiding frivolous litigation involving Government.

13. The Law Ministers further noted that the laws of procedure and evidence were in need of reform.

Administrative Tribunals

14. The Law Ministers recalled that the Resolution of CMs and CJs considered that the recommendations made therein should, *mutatis mutandis,* be enforced even in respect of administrative tribunals and that Government should undertake an examination of problems connected with arrears of cases in those tribunals. In particular, they had drawn attention to the recommendations in the said Resolution with regard to, among other things, fixation of time-limits within which proposals for appointment of members of tribunals ought to be processed, periodic review of the optimum strength of members in each tribunal, granting of adjournments only in exceptional circumstances, time-limits for oral arguments, need for short judgements, grouping of cases, provision of modern equipments to tribunals, priority to old cases, and the need for reserved judgements to be given within a reasonable time.

15. The Law Ministers noted that the Working Group on administrative tribunals reviewed the working of administrative tribunals constituted by the Central Government. They took note of Doc. No. LMM (WG-III)/94/3 containing a working paper on "Review of the Working of Administrative Tribunals."

16. The Law Ministers agreed that the recommendations in the Resolution of the CMs and CJs in respect of administrative tribunals should be implemented as early as possible. They considered that vacancies in these tribunals should be filled up without delay so that the arrears did not mount.

17. The Law Ministers also considered that the tenure of appointment of members of the tribunals should be for fairly longer periods and that the provisions in various enactments in this regard should be reviewed.

18. The Law Ministers also empahsised that care should be taken to ensure that only persons who have, among other things, requisite ability to handle cases, proper personal conduct and ethical behaviour, firmness and fearlessness were appointed as members of tribunals.

19. The Law Ministers were also of the opinion that disputes between Government and public sector undertakings and one public sector undertaking and another public sector undertaking ought not to go to courts or tribunals and that such disputes should be settled between the parties amicably.

20. The Law Ministers also considered that the selection committee constituted for making recommendations for appointment of members of tribunals should be headed by the Chief Justice of India or his nominee at the Central level, and by the Chief Justice of the concerned High Court or his nominee at the State level, and that such a selection committee should be a standing body.

21. The Law Ministers also considered that the administrative control over all tribunals at both Central and State levels should be entrusted to a single Ministry/ Department.

22. The Law Ministers were also of the opinion that orders passed by administrative bodies should invariably be speaking orders so that tribunals could appreciate what actually weighed with the authorities in taking their decisions.

23. The Law Ministers expressed their deep appreciation to the Government of West Bengal for inviting them to hold the present plenary meeting in Calcutta and making all efforts to make it successful.

CALCUTTA;
The 17th November, 1994.

Lok Adalats in Sub-divisional head quarters

6489. SHRI BHAGABAN MAJHI: Will the PRIME MINISTER be pleased to state:

(a) whether it is a fact that the Lok Adalats are becoming more popular in resolving a large number of cases;

(b) if so, the steps taken to enhance the scope of Lok Adalats;

(c) whether the Lok Adalats are needed in every sub-divisional head quarter; and

(f) if so, the steps taken in the matter?

THE MINISTER OF STATE IN THE MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI H.R. BHARDWAJ): (a) Yes, Sir.

(b) The Lok Adalats, which are voluntary efforts for resolution of disputes through conciliation method, has been provided statutory base in the Legal Services Authorities Act. The CILAS also gives grant to State Legal Aid & Advise Boards for organising Lok Adalats.

(c) and (d) The Lok Adalats are not a kin to regularly constituted Law Courts. The Lok Adalats are being organised by the State Legal Aid & Advice Boards and District Legal Aid & Advice Committees at different places as and when needed.

Thermal Energy from Indian Ocean

6490. SHRI SANJAY DALMIA:
MAULANA OBAIDULLAH KHAN AZMI:

Will the PRIME MINISTER be pleased to state:

(a) whether any success has been achieved in the generation of power by developing and harnessing thermal energy from the Indian ocean;

(b) the number of such projects set up so far, State-wise;

(c) the number of such projects likely to be set up during the Eighth Plan;

(d) whether Government have assessed the quality and the production cost of power from this source; and

(e) if so, the details thereof?

THE MINISTER OF STATE IN THE MINISTRY OF NON-CONVENTIONAL ENERGY SOURCES (SHRI S. KRISHNA KUMAR): (a) to (e) The technology for harnessing thermal energy from the ocean is not yet fully commercialised. There is one proposal from M/s. Sea Solar Power Incorporated (SSP), USA for the setting up of a 100 MW capacity power plant based on Ocean Thermal Energy Conversion (OTEC) off the coast of Tamil Nadu. Though a Memorandum of Understanding has been signed between